

C.F. 1001

(4)

**IN THE HIGH COURT OF JUDICATURE AT BILASPUR,
CHHATTISGARH**

Writ Petition No. (C) ⁶⁴⁵⁷ of 2006

PETITIONER

Akrutram Sahu s/o Laxman Sahu
Sarpanch, Gram Panchayat-Kuruwa,
Block-Sa-Lohara, District **Kabirdham**
(CG).

- Versus -**RESPONDENTS**

P.R. No. 6525/06
Presented by Shri. D. K. T. Jaiswal
dated 21-11-06

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1. State of Chhattisgarh through the Secretary, Department of Panchayat, Mantralaya, D.K.S. Bhawan, **Raipur** (CG).
2. Collector, District - **Kabirdham** (CG).
3. Sub Divisional Officer, **Kawardha**. Dist Kabirdham
4. Naib Tehsildar, **Sa-Lohara**, (Kawardha) District-**Kabirdham** (CG).
5. Chief Executive Officer, Janpad Panchayat, Sa-Lohara. Th. Kawardha Dist Kabirdham
6. Ramkhilawan Sahu, Up-Sarpanch, Gram Panchayat-Kuruwa, Block-Lohara. Th. Kawardha Dist Kabirdham
7. Basanat, Panch.
8. Lal Singh, Panch.
9. Harihar Das, Panch.
10. Smt. Aghan Bai, Panch.
11. Gorelal, Panch.
12. Smt. Anusuiya Bai, Panch.
13. Siyaram, Panch.
14. Santosh Das, Panch.
15. Smt. Narbadia Bai, Panch.
16. Smt. Halkunwar Bai, Panch.
17. Smt. Phuleshwari Bai, Panch.
18. Siddhi Prasad, Panch.
19. Kaliram, Panch.
20. Dhanukram, Panch.
21. Vijay Thakur, Secretary.

(Respondents no.6 to 21, Gram Panchayat-Kuruwa, Tehsil-Kawardha, District Kabirdham (CG))

**WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE
WRIT/WRITS, DIRECTIONS ETC., IN THE NATURE OF
MANDAMUS, CERTIORARI AND/OR ANY OTHER SUITABLE
WRIT OF LIKE NATURE**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>23-11-2006</u> Shri Dinesh R.K. Tiwari, Advocate for the petitioner. Shri Arun Sao, Govt. Advocate for the State. Heard. The petitioner has filed this petition under Article 226/227 of the Constitution of India against the order dated 13-11-2006 passed by respondent No. 2 whereby the appeal/revision preferred by the petitioner against No Confidence Motion dated 17-6-2006 whereby the petitioner has been removed from the post of Sarpanch, Kuruva, Block Lohara has been dismissed. Learned counsel for the petitioner submits that the petitioner has challenged the No Confidence Motion on following grounds:- 1. The meeting of the Panchayat was convened for considering No Confidence Motion against the petitioner without following the procedure prescribed in C.G. Panchayat (Gram Panchayat Ke Sarpanch Tatha Up-Sarpanch, Janpad Panchayat Tatha Zila Panchayat Ke President Tatha Vice President Ke Virudh Avishwas Prastav) Niyam, 1994 (for short hereinafter referred to as the Rules of 1994). However the resolution dated 17-6-2006 does not mention as to when notice of No Confidence Motion was issued by the prescribed authority; whether within 15 days the meeting was convened from the date of issuance of said notice. 2. It was mandatory on the part of the prescribed authority to despatch the notice to the Secretary of Gram Panchayat, to every member of the Panchayat concerned 7 days before the meeting, however in the instant case, the notice of the meeting was received only on 14-6-2006 not before clear 7 days.	

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 2	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	3. The petitioner was not afforded an opportunity to up his case in the meeting which is in violation of Rule 5 of Rules of 1994. 4. The petitioner was not afforded an opportunity to speak in the said meeting which is evident from the affidavits of Annexure P-7 sworn by the elected Panchas Kaliram and Ramkhilawan. However learned Collector/apellate authority considering the grounds taken by the petitioner in memo of appeal has dismissed the appeal. Heard the learned counsel for the petitioner. I have perused the impugned order of Annexure P-6 as also the copy of motion of no confidence passed by the Gram Panchayat Annexure P-1. So far as the objection of the petitioner that there is no evidence available in the resolution that within 15 days of receiving the notice of no confidence motion, the meeting was convened, is concerned, the petitioner has not raised this objection before the Panchayat or before the appropriate authority after receiving the notice before the date of meeting and participated in the meeting without any objection which is evident from the perusal of Annexure P-1. The objection in this regard cannot be raised at this stage. The other objection that the petitioner was not afforded an opportunity to put up his case in the meeting in which the motion of no confidence was passed is concerned, the Collector in the impugned order has considered this objection and has held that from a perusal of the resolution, it is evident that after the motion of no confidence was tabled in the Panchayat, every member was given opportunity to speak and there is no objection put up by the petitioner on the date of meeting and in view of the above, the above objection was rejected by the appellate authority.	

P.T.O.

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	So far as the objection that notice of the meeting was not received by the petitioner before 7 clear days of the date when the meeting was convened is concerned, it is settled law that the legal requirement is to despatch the notice before 7 clear days and it is not necessary that it should be served upon the noticee before 7 clear days. Since the petitioner has already participated in the meeting, therefore, there is no force in this petition. It deserves to be dismissed and is dismissed accordingly at admission stage.	Sd/- Dhirendra Mishra Judge

P.T.O.

28/11/06